

# Notice of Allowability

Application No.

09/874,913

Applicant(s)

KELLY ET AL.

Examiner

Maureen M. Wallenhorst

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment received November 25, 2003.
2. ☒ The allowed claim(s) is/are 1, 29, 13, 27, 30-31, 18, 35, 33-34, 36, 38-40 (renumbered 1-14).
3. ☒ The drawings filed on 04 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 02-02-2004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Maureen M. Wallenhorst  
Primary Examiner  
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### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Christiansen on January 29, 2004.

At the end of line 3 in claims 1 and 29, the word --and-- was inserted.

On line 3 of claim 35, the phrase "Triton X-100" was replaced by its generic terminology --polyethylene glycol P-1,1,3,3-tetramethylbutylphenyl ether--. On line 3 of claim 35, the phrase "Tween 20" was replaced by its generic terminology --polysorbate 20--.

On line 5 of claim 36, the phrase "said dye being capable of binding to" was changed to --wherein said dye binds to--. On line 5 of claim 36, the word "producing" was changed to --produces--. On line 6 of claim 36, a comma was inserted after the word "material", and the word "wherein" was deleted. On line 8 of claim 36, the word --and-- was inserted after the word "material,".

On line 2 of claims 38 and 40, the word --separate-- was inserted before the phrase "reagent housing".

On page 26, line 24 of the specification, the phrase --(polysorbate 20)-- was inserted after the phrase "Tween 20" so as to provide the generic terminology for this tradename. On page 26, line 27 of the specification, the phrase --; polyethylene glycol P-1,1,3,3-tetramethylbutylphenyl

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ether—was inserted after the word "ethanediyl" so as to provide another generic terminology for the tradename Triton X-100.

2. The following is an examiner's statement of reasons for allowance: Application serial no. 09/874,913 is being allowed since none of the prior art of record teaches or fairly suggests a self-contained sampling/testing device comprising a sampler for collecting target material from a sample and a signal generator comprising a dye which binds to the target material to indicate the presence of the target material, wherein the sampler contains an absorbent pad or a combination of an absorbent pad covered with a membrane to which the dye is attached either covalently or non-covalently. All of the prior art of record teaches that a dye for indicating a target material is impregnated in an absorbent pad or membrane, not bound to the surface of the pad or membrane either covalently or non-covalently.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen M. Wallenhorst whose telephone number is 571-272-1266. The examiner can normally be reached on Monday-Wednesday from 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden, can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maureen M. Wallenhorst  
Primary Examiner  
Art Unit 1743

mmw

February 2, 2004

*Maureen M. Wallenhorst*  
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PRIMARY EXAMINER  
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